

Journal of the House

State of Indiana

113th General Assembly

First Regular Session

Thirty-third Meeting Day

Thursday Morning

March 20, 2003

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Representative David Orentlicher.

The Pledge of Allegiance to the Flag was led by Representative Scott E. Reske.

The Speaker ordered the roll of the House to be called:

T. Adams Kromkowski Aguilera Kruse Alderman 🖻 Kuzman 🖹 Austin LaPlante L. Lawson Avery Ayres Lehe Bardon Leonard Becker Liggett Behning J. Lutz Bischoff 🖹 Lytle 🖻 Borror Mahern Bosma Mangus **Bottorff** Mays McClain C. Brown T. Brown Moses Buck Murphy Budak Neese Buell Noe Burton Orentlicher Chenev Oxlev Cherry Pelath Chowning Pflum Cochran Pierce Crawford Pond Porter Crooks 🖻 Reske Day Denbo Richardson Dickinson Ripley Dobis 🖻 Robertson Duncan Ruppel 🖻 Dvorak Saunders **Espich** Scholer V. Smith Foley Frenz Stevenson Friend Stilwell Frizzell Stine Stutzman Fry GiaOuinta Summers Goodin Thomas Thompson Grubb Gutwein Torr Harris 🖻 Turner Hasler Ulmer **≜** Heim Weinzapfel Welch ¹♠ Herrell Hinkle Whetstone Hoffman Wolkins Kersey 🖹 D. Young Klinker Yount Koch Mr. Speaker

Roll Call 403: 89 present; 11 excused. The Speaker announced a quorum in attendance. [NOTE: A indicates those who were excused.]

The House stood for a moment of silence remembering our troops in Iraq.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, March 25, 2003, at 1:30 p.m.

ROBERTSON

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bills 1115, 1116, 1117, 1183, and 1395 and the same are herewith returned to the House.

MARY C. MENDEL Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1088, 1176, and 1331 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 36 and the same is herewith returned to the House.

MARY C. MENDEL Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Resolution 28

Representatives Stilwell, Liggett, Harris, Dobis, Pelath, C. Brown, V. Smith, Aguilera, L. Lawson, and Kuzman introduced House Resolution 28:

A HOUSE RESOLUTION on Indiana job loss and U.S. trade policy.

Whereas, Manufacturing jobs, which build and sustain America's middle class, are disappearing; the United States has lost more than 2 million manufacturing jobs since April 1998;

Whereas, In June 2002 Indiana topped all other states in loss of manufacturing jobs;

Whereas, Trade agreements, such as GATT, creating the WTO, and NAFTA, were passsed with strong bipartisan support, amidst promises from the leadership of both parties that the benefits would far outweigh the negative effects;

Whereas, Studies based on the government's own figures have estimated 3 million actual and potential jobs lost since the signing of the NAFTA in 1994; in Indiana, an estimated 102,873 jobs were eliminated between 1994-2000, previous to the even greater dramatic wave of closings in 2001-2002;

Whereas, The annual trade deficit has hit a record high of over \$450 billion, growing by more than 600 percent in the past 10 years;

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Whereas, Our trade deficit with Canada and Mexico has ballooned to nine times its size before NAFTA, since Congress granted China Permanent Normal Trade (PNTR) status in 2000 the U.S. deficit with China has grown more than 20 percent, by more than \$14 billion;

Whereas, The current administration is working on a new trade deal, Free Trade Area of the Americas (FTAA), which is expected to be presented to the U.S. Comgress in 2005;

Whereas, The tremendous effects of the manufacturing crisis in Indiana are obvious, on the tax base and budgets, on our local, county, and state governments, schools, and public services: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That it is incumbent upon the Indiana General Assembly to not only do everything it can to save and attract manufacturing jobs in our state, but legislators must also seriously examine the effects of U.S. trade policy on our state and determine our recommendations to our respective party leadership in Congress.

SECTION 2. That the House of Representatives will convene a study committee to investigate and hold public hearings about the effects of U.S. trade policy on Indiana jobs and farms, inviting workers, labor unions, employers, academics, farm and trade experts to testify; the panel will make recommendations to the Governor and to the U.S. Congressional delegation and the President as to the future direction on trade agreements and what must be done immediately to reverse the continual loss of middle class jobs from our state.

The resolution was read a first time and adopted by voice vote.

House Resolution 29

Representatives Behning, Frizzell, Pond, Bosma, D. Young, Turner, Yount, and Hoffman introduced House Resolution 29:

A HOUSE RESOLUTION recognizing the week of March 3-9, 2003 as Lutheran Schools Week and to acknowledge Lutheran Schools for their excellence in education.

Whereas, The Lutheran Church Missouri Synod is the second largest private educator in the country;

Whereas, There are 2,829 Lutheran Church Missouri Synod Schools in the United States;

Whereas, There are 1,700 Early Childhood Schools, 1,038 Elementary Schools, and 91 High Schools declared as Lutheran Church Missouri Synod Schools in the United States;

Whereas, There are 119 Lutheran Church Missouri Synod Schools in Indiana;

Whereas, In Indiana, there are 62 Early Childhood Schools, 55 Elementary Schools, and 4 High Schools that are Lutheran Church Missouri Synod Schools;

Whereas, There are 14,300 children in Lutheran Church Missouri Synod Schools in Indiana;

Whereas, There are 300,000 children attending Lutheran Church Missouri Synod Schools in the United States: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the House of Representatives of the Indiana General Assembly commends the Lutheran Church Missouri Synod Schools for their excellence in education and recognize March 3-9, 2003 as Lutheran Schools Week.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the Executive Director of Lutheran Schools, David C. Beringer, and the Principal of Lutheran High School, Gary St. Clair.

The resolution was read a first time and adopted by voice vote.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 6, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Page 1, delete lines 1 through 14.

Page 1, line 15, delete "commits air bag tampering, a Class A misdemeanor." and insert:

"SECTION 1. IC 9-13-2-79.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 79.7. "Inflatable restraint system", for purposes of IC 9-19-10.5, has the meaning set forth in IC 9-19-10.5-1.

SECTION 2. IC 9-13-2-105, AS AMENDED BY P.L.143-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of husbandry, or an electric personal assistive mobility device

- (b) "Motor vehicle", for purposes of IC 9-21, means:
 - (1) a vehicle except a motorized bicycle that is self-propelled; or
 - (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
- (c) "Motor vehicle", for purposes of **IC 9-19-10.5** and **IC 9-25**, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.
- (d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

SECTION 3. IC 9-19-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 10.5. Inflatable Restraint Systems

Sec. 1. As used in this chapter, "inflatable restraint system" means an air bag that is activated in a crash.

Sec. 2. A person may not knowingly or intentionally install in a motor vehicle, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle.

Sec. 3. A person may not knowingly or intentionally:

- (1) sell;
- (2) lease;
- (3) trade; or
- (4) transfer;

a motor vehicle in which is installed, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle to an Indiana resident.

Sec. 4. A person who violates section 2 of this chapter commits a Class A misdemeanor."

Page 1, line 16, delete "Class C" and insert "Class D".

Page 1, line 17, after "tampering" insert ".

Sec. 5. A person who violates section 3 of this chapter commits a Class D felony.

SECTION 4. [EFFECTIVE JULY 1, 2003] IC 9-19-10.5-4 and IC 9-19-10.5-5, both as added by this act, apply only to acts committed after June 30, 2003."

Renumber all SECTIONS consecutively.

(Reference is to SB 6 as printed January 31, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

RESKE, Chair

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 13, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 2.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 27, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 65, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 166, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 15, after "(d)" insert ",".

Page 2, line 16, delete "and".

Page 2, line 16, delete "." and insert ", and (f).".

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"(f) This subsection applies to a county that initially imposed a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c)."

Page 6, line 16, after "(c)" insert ",".

Page 6, line 16, delete "and".

Page 6, line 16, delete "." and insert ", and (e).".

Page 7, between lines 4 and 5, begin a new paragraph and insert:

"(e) This subsection applies to a county that initially imposed a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c)."

Page 9, line 24, delete "(e) and (f)." and insert "(e), (f), and (g).". Page 10, between lines 20 and 21, begin a new paragraph and

"(g) This subsection applies to a county that initially imposed a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection (c).".

(Reference is to SB 166 as reprinted February 7, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 215, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE] UPON PASSAGE]"

Page 2, after line 12, begin a new paragraph and insert:

"SECTION 2. An emergency is declared for this act.".

(Reference is to SB 215 as printed January 22, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 247, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 23 and 24, begin a new line block indented

(10) Martinsville city court."

(Reference is to SB 247 as printed February 21, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

WEINZAPFEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred Engrossed Senate Bill 308, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, after "IC 23-7-8-2" insert ", AS AMENDED BY P.L.135-1999, SECTION 8,".

(Reference is to SB 308 as printed January 29, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 340, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 34, delete "An" and insert "Not more than five percent (5%) of the".

Page 2, line 34, delete "dentistry may not employ more than" and

insert "dentistry's full-time faculty may be".
Page 2, line 35, delete "two (2)".
Page 2, line 35, delete "at a time".
(Reference is to SB 340 as reprinted February 26, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

C. BROWN, Chair

Report adopted.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred Engrossed Senate Bill 354, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 14, delete "(1)(C)ii)" and insert "(1)(C)(ii)".

(Reference is to SB 354 as printed January 31, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred Engrossed Senate Bill 365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "IC 10-2-4-24" and insert "IC 10-16-7-23".

Page 1, line 2, delete "JULY".

Page 1, line 3, delete "1, 2003]:" and insert "JANUARY 1, 2003 (RETROACTIVE)]:".

Page 1, line 3, delete "24." and insert "23.".

Page 1, line 5, delete "4" and insert "7".

Page 2, line 4, delete "JULY"

Page 2, line 5, delete "1, 2003]:" and insert "JANUARY 1, 2003 (RETROACTIVE)]:".

Page 2, line 13, delete "IC 10-2-4-24" and insert "IC 10-16-7-23".

Page 2, after line 18, begin a new paragraph and insert:

"SECTION 3. An emergency is declared for this act.".

(Reference is to SB 365 as printed February 12, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

KROMKOWSKI, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 420, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 422, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 460, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

C. BROWN, Chair

Report adopted.

The Speaker yielded the gavel to the Speaker Pro Tempore Emeritus, Representative Robertson.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 464, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 19, after "chapter" insert ", IC 6-1.1-19-10, or IC 21-2-15-11".

(Reference is to SB 464 as reprinted February 14, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 465, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 474, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, line 16, delete "384." and insert "384, and may not be more restrictive than the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) or 49 CFR 384.".

Page 7, line 16, delete "A" and insert "After June 30, 2005, a".

Page 8, line 3, delete "A" and insert "After June 30, 2005, a". Page 8, line 7, delete "A" and insert "After June 30, 2005, a".

Page 8, line 12, delete "Probationary" and insert "After June 30, 2005, probationary".

Page 8, line 18, delete "This" and insert "After June 30, 2005, this".

Page 8, line 26, delete "This" and insert "After June 30, 2005, this".

Page 10, line 33, delete "This" and insert "After June 30, 2005, this".

Page 10, line 41, delete "This" and insert "After June 30, 2005, this".

Page 12, line 8, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 12, line 9, delete "2003]." and insert "2003]: Sec. 10. (a) Notwithstanding any other provision of this chapter, an individual may not receive a restricted driver's license to operate a commercial motor vehicle if the individual's driving privileges are suspended for an alcohol or drug violation under IC 9-30-5 or 49 CFR 391.15.

(b) This section expires July 1, 2005.".

Page 12, after line 9, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 8-2.1-24-18, as amended by this act, the requirement that 49 CFR 383 and 384 be incorporated into Indiana law by reference, as provided by IC 8-2.1-24-18, as amended by this act, does not apply before July 1, 2005.

(b) Notwithstanding IC 9-13-2-161, as amended by this act, the inclusion of "commercial motor vehicle" within the definition of "school bus" and the specification that a school bus may be used to transport preschool, elementary, or secondary school children, as provided by IC 9-13-2-161, as amended by this act, does not apply before July 1, 2005.

(c) Notwithstanding IC 9-24-6-1, as amended by this act, the exclusion from the application of IC 9-24-6 of a motor vehicle that is a farm vehicle that is exempt under 49 U.S.C. 31104 and 49 U.S.C. 31301 through 31306, or applicable federal regulations, as provided by IC 9-24-6-1, as amended by this act, does not apply before July 1, 2005.

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- (d) Notwithstanding IC 9-24-6-1, as amended by this act, IC 9-24-6 does not apply to a motor vehicle that is used as a school bus, that is designed to carry more than fifteen (15) passengers, including the driver, and that is exempt under 49 U.S.C. 521, 49 U.S.C. 31104, and 49 U.S.C. 31301 through 31306, or applicable federal regulations, as provided by IC 9-24-6-1, as amended by this act, before July 1, 2005.
 - (e) Notwithstanding IC 9-24-6-2, as amended by this act: (1) the requirement that the rules adopted by the bureau of motor vehicles to regulate persons required to hold a commercial driver's license shall carry out 49 CFR 384;
 - (2) the prohibition against the rules adopted by the bureau of motor vehicles to regulate persons required to hold a commercial driver's license being more restrictive than the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) or 49 CFR 384; and

(3) the adoption of 49 CFR 384 as Indiana law; as provided by IC 9-24-6-2, as amended by this act, do not apply before July 1, 2005."

(Reference is to SB 474 as printed January 29, 2003.) and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 494, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 515, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Chair announced, pursuant to House Rule 127, that Engrossed Senate Bill 65 had been referred to the Committee on Ways and Means.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the concurrence on Engrossed House Bill 1167, Roll Call 402, on March 18, 2003. In support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, the voting machine did not register my vote. I intended to vote yea."

DUNCAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [Journal Clerk's note: the final vote tally for Engrossed House Bill 1167 is 90 yeas, 0 nays.]

HOUSE MOTION

Mr. Speaker: I move that Representative Koch be added as cosponsor of Engrossed Senate Bill 320.

MAHERN

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Liggett, the House adjourned at 11:40 a.m., this twentieth day of March, 2003, until Tuesday, March 25, 2003, at 1:30 p.m.

B. PATRICK BAUER Speaker of the House of Representatives

DIANE MASARIU CARTER Principal Clerk of the House of Representatives